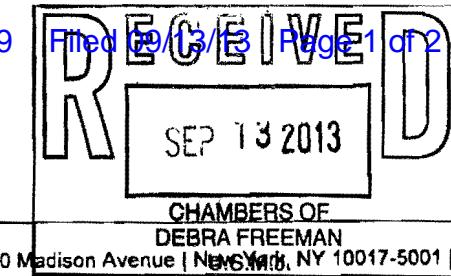


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September 13, 2013

**VIA FACSIMILE TRANSMISSION -- (212) 805-4258**

Honorable Debra Freeman  
United States Magistrate Judge  
United States District Court for the Southern District of New York  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street, Room 525  
New York, New York 10007-1312

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DATE FILED: 9/13/13

Re: *Robledo, et al. v. No. 9 Perfume Leasehold, et al.*  
Case No.: 12-cv-3579 (ALC) (DF)

Dear Judge Freeman:

**MEMO ENDORSED**

This firm represents the defendants in the referenced action. We write to ask the Court to set a briefing schedule for plaintiffs' motion for conditional certification of an FLSA class. We regret having to seek judicial intervention for a matter that the parties ought to be able to arrange for themselves, but the requisite cooperation has not been forthcoming.

We respectfully request to be permitted to file defendants' opposition to plaintiffs' motion by October 11, and for plaintiffs' reply to be due at any date after that which the Court deems appropriate.

Plaintiffs filed their motion by ECF on September 5, 2013. On September 6, I spoke with Peter Andrews, Esq., with whom I have dealt as counsel for the plaintiffs, to address certain issues that had arisen in connection with the parties' written discovery. During our conversation I suggested we set a briefing schedule. I stated that because of my schedule in September, which included three mediations, a brief to the New York Court of Appeals, and several depositions, including the depositions of the plaintiffs in this action, I would need until a date in October, probably mid-October. He did not object, and we agreed to revisit the issue this week after we had consulted our calendars specifically for the purpose of setting the briefing schedule.

On Tuesday evening this week, I received an e-mail from Mr. Andrews which stated, "We will consent to an opposition due date of Friday, October 4 regarding our motion for preliminary collective action certification." I replied on Wednesday with an e-mail in which I asked if we could make it October 11, since I would be out of the office on

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Hon. Debra Freeman  
September 13, 2013  
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Tuesday and Friday, October 1 and 4, and would be deposing one of the plaintiffs in this action on Thursday, October 3.

That evening I received a reply to my e-mail from Walker Harman, Esq., with whom I have also dealt as counsel for the plaintiffs. Mr. Harman's e-mail said, "We do not agree. No."

Then, on Thursday morning, I received another e-mail from Mr. Harman, which stated, "Please just file your opposition according to the federal and local rules. We will be sticking with the schedule set out in the rules absent extraordinary circumstances."

Defendants submit that it is unfair for counsel (a) on September 6 to have agreed in principle to a due date in October, (b) on September 10 to agree to October 4, and then (c) on September 11 to pull the rug out from under us after half of the minimum time the rules provide had expired, and declare that defendants' papers will be due September 19.

It took plaintiffs themselves three and a half months after defendants filed their Answer the Second Amended Complaint to prepare and file their motion. Indeed, they needed 34 days after plaintiff Robledo signed her affidavit on August 2, 2013 before they were ready to file their motion on September 5.

Defendants request the Court to permit us to file opposing papers by October 11, which would give us 36 days in which to prepare our affidavits and other supporting papers. We note that this is only two days more than it took plaintiffs to file after they had already prepared the principal affidavit in support of their motion.

We also request the Court to direct counsel for the plaintiffs to decide upon one attorney for defendants to deal with on this case. It is wholly unworkable for us to deal with Mr. Andrews and have Mr. Harman renege on commitments that Mr. Andrews made.

Thank you for your attention to this matter.

The requested 10/11/13 deadline for opposition is granted, although the court will not specify which counsel should work on this case, or how, counsel are expected to work together cooperatively and in good faith with respect to DAL/omo scheduling & all other matters.

Very truly yours,

Dennis A. Lahti

SO ORDERED: DATE: 9/13/13

DEBRA FREEMAN  
UNITED STATES MAGISTRATE JUDGE

cc: Walker Harman, Esq. (via e-mail transmission as a pdf document)  
Peter J. Andrews, Esq. (via e-mail transmission as a pdf document)